

# City Of Huntington

## Office Of The City Attorney

Scott A. Damron, City Attorney - [damrons@cityofhuntington.com](mailto:damrons@cityofhuntington.com)

Ericka Hernandez, Asst. City Attorney - [hernandez@cityofhuntington.com](mailto:hernandez@cityofhuntington.com)

April 12, 2019

Via email: [dlevinthal@publicintegrity.org](mailto:dlevinthal@publicintegrity.org)

Dave Levinthal

Re: FOIA Request of April 11, 2019

Dear Mr. Levinthal:

Attached please find the unredacted agreement between SMG and Donald J. Trump for President, Inc., which is the only document that we have that is responsive to your request. We have waived the fee for producing this document.

Sincerely,



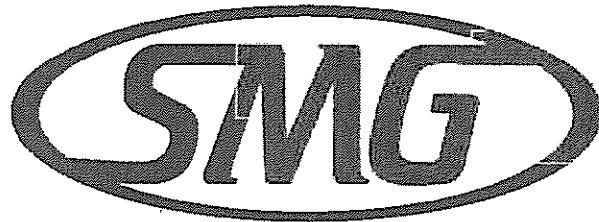
Scott A. Damron

City Attorney

SD/tr

Attachment





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*An SMG Managed Facility*



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**USE LICENSE AGREEMENT**

**BY AND BETWEEN**

**SMG & Donald J. Trump for President, Inc.**  
**July 27, 2017**

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## USE LICENSE AGREEMENT

**THIS USE LICENSE AGREEMENT** is dated as of July 27, 2017 by and between SMG, a Pennsylvania general partnership, with an address at 300 Conshohocken State Rd Ste 770, West Conshohocken, PA 19428 ("SMG"), and Donald J. Trump for President, Inc., whose address is 725 5<sup>th</sup> Avenue, New York, NY 10022 (the "Licensee").

### BACKGROUND

SMG is a party to a certain management agreement (the "Management Agreement") dated as of July 1, 2004 with the City of Huntington, West Virginia (the "Owner"), whereby SMG has been retained to act as Owner's managing agent in respect of a facility commonly known as the Big Sandy Superstore Arena (the "Facility"), located at One Civic Center Plaza, Huntington, West Virginia 25701, which is owned by Owner. Licensee desires to use all or a portion of the Facility, as set forth below, for the purposes stated herein. Pursuant to the Management Agreement, SMG has the express authority to enter into agreements on Owner's behalf relating to the use of the Facility. Accordingly, SMG, as agent for Owner, desires to grant to Licensee, and Licensee hereby accepts from SMG, a license to use certain areas of the Facility in accordance with the terms and conditions set forth herein.

SMG is the manager of a facility commonly known as the Big Sandy Superstore Arena (the "Facility"), located at One Civic Center Plaza, Huntington, West Virginia 25701, which is owned by the City of Huntington, West Virginia (the "Owner"). Licensee desires to use all or a portion of the Facility, as set forth below, for the purposes stated herein. Accordingly, SMG desires to grant to Licensee, and Licensee hereby accepts from SMG, a license to use certain areas of the Facility in accordance with the terms and conditions set forth herein.

**NOW, THEREFORE**, in consideration of the foregoing and the mutual promises, covenants, and agreements herein contained, the parties hereto, intending to be legally bound, hereby agree as follows:

1. Use of the Facility.

(a) SMG hereby grants Licensee, upon the terms and conditions hereinafter expressed, a license to use certain Authorized Areas of the Facility including all improvements, furniture, fixtures, easements, rights of ingress and egress, and appurtenances thereto, during **Thursday, August 03, 2017 (Move in Date – Wednesday, August 02, 2017)** (each such date and time, an "Event"). Authorized Areas shall include the Arena Floor, Backstage Area, Dressing Rooms, Meeting Rooms, and Catering. It is expressly understood by the parties hereto that the Facility shall be vacated by Licensee and all persons participating in or attending an Event hereunder on or prior to the end-time of the last Event listed (the "Expiration Time") and, as such, Licensee shall arrange to have all Events and activities related thereto cease within a reasonable time prior to the Expiration Time to allow ample time for the Facility to be completely vacated on or prior to the Expiration Time.

(b) In the event Licensee desires to use the Authorized Areas or any other portion of the Facility at any time other than during the dates and times delineated on in paragraph 1a, Licensee shall request from SMG prior written permission to use such areas of the Facility. In the event such permission is granted, Licensee shall pay as additional rent an amount equal to the sum of SMG's actual costs for performing its obligations under this Agreement during the date(s) and time(s) requested, and a fee in an amount determined by SMG to represent a fair value for use of such additional areas of the Facility during such date(s) and time(s).

(c) Licensee acknowledges that, in connection with SMG's management and operation of the Facility, SMG utilizes the services of certain third-party independent contractors (the "Third-Party Contractors"). Licensee hereby agrees that SMG shall not be responsible in any way for the acts and/or omissions of any one or all of the Third-Party Contractors.

(d) Floor Plans, Descriptions, and Set-Up.

(i) In advance of the Event, Licensee shall provide to SMG, for SMG's review (and/or the review of any consultant or representative engaged by SMG), a full and complete description of all set-

up (including, without limitation, any staging, lighting, video boards, and/or rigging from or to the physical structure of the Facility or any fixture thereto required for the Event), electrical, communications systems, and plumbing work anticipated to be needed for the Event.

(ii) In advance of the Event, Licensee shall provide to SMG information relating to room or hall set-up(s), staging, event personnel requirements, and food and beverage requirements.

(iii) Licensee shall be solely liable for any and all Losses arising from Licensee's failure to deliver to SMG the materials described in subparagraphs (i), (ii) and (iii) of this Section 1(d) within the specified time periods, including, without limitation, overtime pay and short-notice delivery fees.

2. Purpose.

(a) The Facility is to be used solely for the purpose of holding a **Donald J. Trump for President – campaign rally**. Licensee shall not use the Facility, or permit the Facility to be used by any of its officers, directors, agents, employees, licensees, or invitees, for any unlawful or immoral purpose or in any manner so as to injure persons or property in, on, or near the Facility.

(b) Licensee shall be solely liable for any and all losses, liabilities, claims, damages and expenses (including reasonable costs of investigation and attorneys' fees) (collectively, the "Losses") occurring at the Facility (whether within or without an Authorized Area) caused to SMG, Owner and/or persons and/or property in, on, or near the Facility before, during, or after an Event, by (i) Licensee's failure to comply with any and all federal, state, foreign, local, and municipal regulations, ordinances, statutes, rules, laws, constitutional provisions, and common laws (collectively, the "Laws") applicable to Licensee's performance of this Agreement and/or activities at the Facility, (ii) any unlawful acts on the part of Licensee or its officers, directors, agents, employees, subcontractors, licensees, or invitees, (iii) the negligent acts, errors and/or omissions or the willful misconduct of Licensee or its officers, directors, agents, employees, subcontractors, licensees, or invitees, (iv) the material breach or default by Licensee or its officers, directors, agents, or employees of any provisions of this Agreement, including, without limitation, the provisions of Section 13(j) hereof (relating to intellectual property matters), Section 14 hereof (relating to the Civil Rights Act), and Section 15 hereof (relating to the Americans with Disabilities Act), and (v) any and all rigging from or to the physical structure of the Facility or any fixture thereto, set-up, alterations, and/or improvements at or to the Facility necessitated by and/or performed with respect to the Event.

(c) Licensee shall conduct business in the Facility in a dignified and orderly manner with full regard for public safety and in conformity with SMG's General Rules and Regulations, including fire and safety rules as required by SMG and/or local fire regulations, as such may exist from time to time. Without limiting the foregoing, Licensee shall obtain prior written approval from SMG's General Manager at the Facility for any pyrotechnic displays which Licensee anticipates may be performed at the Facility during the term of this Agreement. Licensee agrees that it will not allow any officer, agent, employee, licensee or invitee at, in or about the Facility who shall, upon reasonable grounds, be objected to by SMG and such person's right to use the Facility may be revoked immediately by SMG.

3. Condition of Facility.

(a) Licensee acknowledges that Licensee has inspected the Facility and that Licensee is satisfied with and has accepted the Facility in its present condition.

(b) SMG shall have the continuing obligation and responsibility to maintain and keep the Facility in good order and repair, normal wear and tear excepted; provided, however, that (i) the failure by SMG to accomplish the foregoing, said failure resulting from circumstances beyond the control of SMG (to include acts of God, fires, floods, epidemics, quarantine restrictions, terrorist acts, strikes, labor disputes, failure of public utilities, or unusually severe weather), shall not be considered a breach of this Agreement by SMG, and (ii) any damages to the Facility and its appurtenances caused by Licensee or its officers, directors, agents, employees, subcontractors, licensees, or invitees shall be paid for by Licensee at the actual or estimated cost of repair, as elected by SMG.

(c) Licensee shall not make any alterations or improvements to the Facility without the prior written consent of SMG. Any alterations or improvements of whatever nature made or placed by Licensee to or on the Facility, except movable trade fixtures, shall, at the option of SMG, (i) be removed by Licensee, at Licensee's expense, immediately upon the conclusion of the Event, or (ii) become the property of SMG. SMG may, at its election, accept delivery of property addressed to Licensee only as a service to Licensee, and Licensee will indemnify, defend, and hold harmless SMG for any loss or damage to such property in the receipt, handling, care, and custody of such property at any time. SMG assumes no responsibility whatsoever for any property placed in the Facility. Notwithstanding anything to the contrary set forth herein, Licensee shall be solely responsible and liable for any and all Losses arising out of any and all rigging from or to the physical structure of the Facility or any fixture thereto, set-up, alterations, and/or improvements at or to the Facility necessitated by and/or performed with respect to the Event.

4. Term of License. The license granted in Section 1 above will be effective as of the date and time set forth in paragraph 1a and will continue in effect, unless earlier terminated as set forth in Section 11, until the date and time set forth on paragraph 1a.

5. License Fee and Building Service Expenses. In consideration of the grant of the license in Section 1 above, Licensee shall pay SMG a license fee and shall reimburse SMG for certain service expenditures as follows:

(a) License Fee. Licensee shall pay a fee in the amount of:

Rent: \$15,000 includes Two Day rental of arena, ushers, janitorial staff, supervisors, utilities, in-house bike rack, manlift rental (if needed), in-house staging.

Not Included: EMS (recommend 3 teams, each billable at \$30 per hour, with a 4-hour minimum), security, I.A.T.S.E. stagehand and rigging labor costs, catering, towels at \$3.00 per, internet/phone at \$150 per hard line, ASCAP/BMI/SESAC, police, marketing and advertising, non-house owned furniture, rider requirements, insurance, fuel, show required rentals, and any other show related expenses.

Tax Rates are 7% State; 2% City; 0.5% Business & Occupation

(b) Building Services Expenses.

(i) SMG shall provide, as required for each Event, the following services (collectively, the "Services"), the expenditures for which are written out in paragraph 5a: ticket takers, box office services, ticket seller labor, ushers, supervisors, and receptionists; medical services for Event attendees provided by EMT's; food and beverage services (not show catering); City of Huntington Police; utilities, including electricity, gas, lighting, water, heating, ventilating, air conditioning, hot and cold water facilities, and waste removal services / custodial services.

(ii) SMG shall determine the level of staffing for such Services at each Event after consultation with, and input from, Licensee. Licensee acknowledges and understands that many of the Services are contracted services, the costs of which are subject to change. Licensee shall reimburse SMG for actual costs incurred by SMG in connection with the Services as provided in Section 7 below.

6. Payment Terms.

(a) License Fee. The License Fee shall pay a non-refundable deposit of \$10,000 with signed contract by Monday, July 31, 2017. Final Balance to be paid in full within 5 business days of event completion.

(b) Reimbursable Service Expenses. Based upon a report (each an "Expense Report") delivered by SMG, Licensee will reimburse SMG for all expenses directly incurred by SMG in connection with the Services at final settlement.

(c) Late Charges. If Licensee fails to pay any amounts when due under this Agreement, Licensee shall pay to SMG a late charge of 1.5% per month on the unpaid balance.

7. **Revenues and Costs.** SMG shall retain one hundred percent (100%) of all revenues generated in connection with the sale of food and beverages at the Facility. In addition to payment of the Reimbursable Service Expenses above, Licensee shall bear all expenses incurred by Licensee in connection with the holding of an Event at the Facility, including, but not limited to, all costs arising from the use of patented, trademarked or copyrighted materials, equipment, devices, processes or dramatic rights used on or incorporated in the conduct of an Event.

8. **Taxes.** SMG shall not be liable for the payment of taxes, late charges, or penalties of any nature relating to any Event or any revenue received by, or payments made to, Licensee in respect of any Event, except as otherwise provided by law. Licensee shall pay and discharge as they become due, promptly and before delinquency, all taxes, assessments, rates, damages, license fees, municipal liens, levies, excises, or imposts, whether general or special, or ordinary or extraordinary, of every name, nature, and kind whatsoever, including all governmental charges of whatsoever name, nature, or kind, which may be levied, assessed, charged, or imposed, or which may become a lien or charge against this Agreement or any other improvements now or hereafter owned by Licensee.

9. **Insurance.**

(a) Licensee shall, at its own expense, secure and deliver to SMG in advance of the event date and time set forth in paragraph 1a and shall keep in force at all times during the term of this Agreement:

(i) a comprehensive general liability insurance policy in form acceptable to SMG, including public liability and property damage, covering its activities hereunder, in an amount not less than **One Million Dollars (\$1,000,000)** for bodily injury and **One Million Dollars (\$1,000,000)** for property damage, including blanket contractual liability, independent contractors, and products and completed operations. The foregoing general liability insurance policy shall not contain exclusions from coverage relating to the following participants, legal liability activities or issues related to the Event hereunder: sporting events, high risk events (including, without limitation, rap concerts), performers, volunteers, animals, off-premise activities, and fireworks or other pyrotechnical devices;

and

(ii) Applicable workers compensation insurance for Licensee's employees, as required by applicable law.

(b) The following shall apply to the insurance policy described in clause (i) above:

(i) **SMG, City of Huntington, West Virginia, and the Big Sandy Superstore Arena, and its employees shall be named as additional insureds thereunder.** In advance of the Event, Licensee shall deliver to SMG certificates of insurance evidencing the existence thereof, all in such form as SMG may reasonably require. Each such policy or certificate shall contain a valid provision or endorsement stating, "This policy will not be canceled or materially changed or altered without first giving thirty (30) days' written notice thereof to each of SMG, Risk Management Director, 300 Conshohocken State Rd Ste 770, West Conshohocken, PA 19428, and Big Sandy Superstore Arena, One Civic Center Plaza, Huntington, West Virginia 25701". If any of the insurance policies covered by the foregoing certificates of insurance will expire prior to or during the time of an Event, Licensee shall deliver to SMG at least thirty (30) days prior to such expiration a certificate of insurance evidencing the renewal of such policy or policies.

(i) The coverage provided under such policies shall be occurrence-based, not claims made.

(ii) The coverage limits contained on such policies shall be on a per-occurrence basis only.

(iii) Licensee hereby acknowledges that the coverage limits contained in any policy, whether such limits are per occurrence or in the aggregate, shall in no way limit the liabilities or obligations of

Licensee under this Agreement, including, without limitation, Licensee's indemnification obligations under Section 10 below.

(c) The terms of all insurance policies referred to in this Section 9 shall preclude subrogation claims against SMG and Owner and their respective officers, directors, employees, and agents.

(d) The failure of the Licensee to provide insurance in accordance with this Section 9 shall be a breach of this Agreement and shall, notwithstanding any cure period set forth in Section 11 below, preclude the Event from taking place.

10. Indemnification.

(a) Licensee shall indemnify, defend, and hold harmless SMG, Owner, and their respective officers, directors, agents, and employees (the "Indemnitees") from and against any and all Losses arising from (i) the matters described in Section 2(b) hereof, and/or (ii) personal or bodily injury to or death of persons or damage to the property of SMG or Owner to the extent caused by the negligent acts, errors and/or omissions or the willful misconduct of Licensee or its officers, directors, agents, employees, subcontractors, licensees, or invitees.

(b) SMG shall indemnify, defend, and hold harmless Licensee and their respective officers, directors, agents, and employees (the "Indemnitees") from and against any and all Losses arising from (i) the matters described in Section 2(c) hereof, and/or (ii) personal or bodily injury to or death of persons or damage to the property of Licensee to the extent caused by the negligent acts, errors and/or omissions or the willful misconduct of SMG or its officers, directors, agents, or employees.

(c) The provisions set forth in subparagraph (a) and (b) above shall survive termination or expiration of this Agreement.

(d) These terms of indemnification shall be effective unless such damage or injury is the result, proximate or remote, of the gross negligence or malfeasance of SMG.

11. Default, Termination and Other Remedies.

(a) Default. Licensee shall be in default under this Agreement if any of the following occur: (i) Licensee fails to pay any amount due hereunder (including, without limitation, the Licensee Fee or the Reimbursable Service Expenses) when the same are required to be paid hereunder, (ii) Licensee or any of its officers, directors, employees or agents fails to perform or fulfill any other term, covenant, or condition contained in this Agreement and Licensee fails to commence a cure thereof within five (5) business days after Licensee has been served with written notice of such default, or (iii) Licensee makes a general assignment for the benefit of creditors. SMG shall be in default under this Agreement if SMG fails to perform or fulfill any term, covenant, or condition contained in this Agreement and SMG fails to commence a cure thereof within five (5) business days after SMG has been served with written notice of such default. Nothing herein shall be construed as excusing either party from diligently commencing and pursuing a cure within a lesser time if reasonably possible. Notwithstanding clause (ii) above, if the breach by Licensee or any of its officers, directors, employees, or agents of such other term, covenant, or condition is such that it threatens the health, welfare, or safety of any person or property, then SMG may, in its discretion, require that such breach be cured in less than five (5) business days or immediately.

(b) Termination by Reason of Default. Upon a default pursuant to Section 11(a) hereof, the nonbreaching party may, at its option, upon written notice or demand upon the other party, cancel and terminate the license granted in Section 1 hereof and the obligations of the parties with respect thereto. In addition to the foregoing, if Licensee fails to comply with any of the provisions of this Agreement, SMG may, in its sole discretion, delay and/or withhold payment and/or settlement of all accounts and funds related to monies collected or received by SMG for the benefit of Licensee hereunder until the completion of an investigation relating to such violation.

(c) Termination by Reason of Labor Dispute. In addition to the remedies provided elsewhere in this Agreement, SMG shall have the right to terminate this Agreement in the event that a dispute occurs between

Licensee and its employees or between Licensee and any union or group of employees by reason of the union affiliation or lack of union affiliation of persons employed by Licensee or any one with whom Licensee contracts.

(d) **Injunctive Relief.** In addition to any other remedy available at law, equity, or otherwise, each party shall have the right to seek to enjoin any breach or threatened breach and/or obtain specific performance of this Agreement upon meeting its burden of proof of such breach or threatened breach as required by applicable statute or rule of law.

(e) **Unique Qualities.** The parties agree and acknowledge that the Licensee is a unique entity and, therefore, the rights and benefits that will accrue to SMG by reason of this Agreement are unique and that SMG may not be adequately compensated in money damages for Licensee's failure to comply with the material obligations of Licensee under this Agreement and that therefore SMG, at its option, shall have the right to pursue any remedy available at law, equity, or otherwise, including the recovery of money damages and/or the right to seek equitable relief (whether it be injunctive relief, specific performance or otherwise) in the event that Licensee violates its obligations under this Agreement.

12. **Representations and Warranties.** Each party hereby represents and warrants to the other party, and agrees as follows:

(a) It has the full power and authority to enter into this Agreement and perform each of its obligations hereunder;

(b) It is legally authorized and has obtained all necessary regulatory approvals for the execution, delivery, and performance of this Agreement; and

(c) No litigation or pending or threatened claims of litigation exist which do or might adversely affect its ability to fully perform its obligations hereunder or the rights granted by it to the other party under this Agreement.

13. **Covenants.** Licensee hereby covenants as follows:

(a) Licensee shall not occupy or use the Facility except as provided in this Agreement.

(b) Licensee shall comply with all legal requirements which arise in respect of the Facility and the use and occupation thereof.

(c) Licensee shall not cause or permit any Hazardous Material to be used, stored, or generated on, or transported to and from the Facility. "Hazardous Material" shall mean, without limitation, those substances included within the definitions of "hazardous substances", "hazardous materials", "toxic substances", or "solid waste" in any applicable state or federal environmental law.

(d) Licensee shall not cause or permit beer, wine, or liquors of any kind to be sold, given away, or used upon the Facility except upon prior written permission of SMG.

(e) Licensee shall not operate any equipment or materials belonging to SMG without the prior written approval of SMG.

(f) Licensee, its officers, directors, employees, agents, members, or other representatives shall not "scalp" tickets for an Event, to the extent applicable. Licensee and its representatives shall provide assistance to SMG in its efforts to control and prevent such ticket "scalping".

(g) No portion of any passageway or exit shall be blocked or obstructed in any manner whatsoever, and no exit door or any exit shall be locked, blocked, or bolted while the Facility is in use. Moreover, all designated exitways shall be maintained in such manner as to be visible at all times.

(h) Licensee shall abide by and conform to all rules and regulations adopted or prescribed by SMG pursuant to a certain operating handbook titled Technical Manual, a copy of which has been provided to Licensee and the terms of which are incorporated by reference herein.

(i) Licensee shall not encumber, hypothecate, or otherwise use as security its interests in this Agreement for any purpose whatsoever without the express written consent of SMG.

(j) With respect to any Event at the Facility, Licensee shall comply fully with any and all local, state, and federal laws, regulations, rules, constitutional provisions, common laws, and rights of others applicable to the reproduction or performance of proprietary or copyrighted materials and works of third parties (the "Works"), and to the protection of the intellectual property rights associated with such Works. The fees payable by Licensee under this Agreement do not include royalty, copyright or other payments which may be payable on behalf of third party owners of such Works, and Licensee agrees hereby to make any and all such payments to third parties and/or clearinghouse agencies as may be necessary to lawfully perform, publish or reproduce any such Works. Licensee specifically agrees, undertakes, and assumes the responsibility to make any and all reports to such agencies and/or parties, including specifically by way of example only (and not by way of limitation) ASCAP, BMI, SAG, SESAC and other similar agencies. Licensee agrees hereby to produce evidence of such reports and payments to SMG, including evidence of compliance with the requirements of this paragraph to be provided to SMG in advance of any such Event. Provision of such evidence is a material condition of this Agreement. Licensee agrees to indemnify, defend, protect and hold harmless SMG and all other Indemnitees (as defined in this Agreement) of and from all and all manner of Losses arising in any way from the use by Licensee of proprietary intellectual property of third parties (whether such claims are actual or threatened) under the copyright or other laws of the United States. The foregoing indemnity shall apply regardless of the means of publication or performance by Licensee, and shall include specifically and without limitation the use of recordings, audio broadcasts, video broadcasts, Works on other magnetic media, sounds or images transmitted via the worldwide web, chat rooms, webcast, or on-line service providers, satellite or cable, and all other publication or performance means whatsoever, whether now known or developed after the date of this Agreement.

(k) Licensee shall not engage in the sale and/or distribution of food and/or beverages at the Facility.

(l)

14. Civil Rights Act. During the performance of this Agreement, Licensee shall comply fully with Title VI and Title VII of the Civil Rights Act of 1964, as amended, and all other regulations promulgated thereunder, in addition to all applicable state and local ordinances concerning Civil Rights.

15. Americans With Disabilities Act. With respect to any Event at the Facility, Licensee recognizes that it is subject to the provisions of Title III of the Americans With Disabilities Act, as amended, and all similar applicable state and local laws (collectively, the "ADA"). Licensee represents that it has viewed or otherwise apprised itself of the access into the Facility, together with the common areas inside, and accepts such access, common areas, and other conditions of the Facility as adequate for Licensee's responsibilities under the ADA. Licensee shall be responsible for ensuring that the Facility complies and continues to comply in all respects with the ADA, including accessibility, usability, and configuration insofar as Licensee modifies, rearranges or sets up in the Facility in order to accommodate Licensee's usage. Licensee shall be responsible for any violations of the ADA, including, without limitation, those that arise from Licensee's reconfiguration of the seating areas or modification of other portions of the Facility in order to accommodate Licensee's usage. Licensee shall be responsible for providing auxiliary aids and services that are ancillary to its usage and for ensuring that the policies, practices, and procedures it applies in connection with an Event are in compliance with the ADA.

16. Construction of this Agreement

(a) Choice of Law. This Agreement shall be deemed to be made, governed by, and construed in accordance with the laws of the State of West Virginia, without giving effect to the conflict of law principles thereof.

(b) Paragraph Headings. The paragraph headings are inserted herein only as a matter of convenience and for reference and in no way are intended to be a part of this Agreement or to define, limit, or describe the scope or intent of this Agreement or the particular paragraphs hereof to which they refer.

(c) Entire Agreement; Amendments. This Agreement (including all Exhibits and other documents and matters annexed hereto or made a part hereof by reference) contains all of the representations, warranties, covenants, agreements, terms, provisions, and conditions relating to the rights and obligations of SMG and Licensee with respect to the Facility and the Event. No alterations, amendments, or modifications hereof shall be valid unless executed by an instrument in writing by the parties hereto. **WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, IT IS EXPRESSLY UNDERSTOOD AND AGREED BY THE PARTIES HERETO THAT NO OFFICER, DIRECTOR, EMPLOYEE, AGENT, REPRESENTATIVE, OR SALES PERSON OF EITHER PARTY HERETO, OR OF THE OWNER OR ANY THIRD PARTY HAS THE AUTHORITY TO MAKE, HAS MADE, OR WILL BE DEEMED TO HAVE MADE, ANY REPRESENTATION, WARRANTY, COVENANT, AGREEMENT, GUARANTEE, OR PROMISE WITH RESPECT TO THE FINANCIAL SUCCESS OR PERFORMANCE, AND/OR OTHER SUCCESS, OF THE EVENT. THE LICENSEE HEREBY ACKNOWLEDGES AND AGREES THAT ANY ASSESSMENT OF THE FINANCIAL SUCCESS OR PERFORMANCE, AND/OR OTHER SUCCESS, OF THE EVENT IS SOLELY THAT OF THE LICENSEE'S OWN DETERMINATION AND JUDGMENT.**

(d) Severability. If any provision or a portion of any provision of this Agreement is held to be unenforceable or invalid by a court of competent jurisdiction, the validity and enforceability of the enforceable portion of any such provision and/or the remaining provisions shall not be affected thereby.

(e) Time. Time is of the essence hereof, and every term, covenant, and condition shall be deemed to be of the essence hereof.

(f) Successors. This Agreement shall be binding upon, and shall inure to, the benefit of the successors and assigns of SMG, and to such successors and assigns of Licensee as are permitted to succeed to the Licensee's right upon and subject to the terms hereof.

(g) Independent Contractor; No Partnership. SMG and Licensee shall each be and remain an independent contractor with respect to all rights and obligations arising under this Agreement. Nothing herein contained shall make, or be construed to make, SMG or Licensee a partner of one another, nor shall this Agreement be construed to create a partnership or joint venture between and of the parties hereto or referred to herein.

(h) Singular and Plural. Whenever the context shall so require, the singular shall include the plural, and the plural shall include the singular.

#### 17. Miscellaneous.

(a) Waiver. The failure of any party to enforce any of the provisions of this Agreement, or any rights with respect hereto, or the failure to exercise any election provided for herein, will in no way be considered a waiver of such provisions, rights, or elections, or in any way affect the validity of this Agreement. The failure of any party to enforce any of such provisions, rights, or elections will not prejudice such party from later enforcing or exercising the same or any other provisions, rights, or elections which it may have under this Agreement.

(b) Assignment. Neither this Agreement nor any of the rights or obligations hereunder may be assigned or transferred in any manner whatsoever by Licensee without the prior written consent of SMG. SMG shall be entitled to assign its rights and obligations hereunder to Owner or to any other management company retained by Owner to manage the Facility, and in such event, SMG shall have no further liability to Licensee hereunder for the performance of any obligations or duties arising after the date of such assignment. To the extent Owner retains another management company to manage the Facility, any references to SMG herein shall be deemed changed to reference such management company, as agent for Owner.]

(c) Notices. Any notice, consent, or other communication given pursuant to this Agreement shall be in writing and shall be effective either (i) when delivered personally to the party for whom intended, (ii) upon delivery by an overnight courier services that is generally recognized as reliable, and the written records maintained by the courier shall be *prima facie* evidence of delivery, (iii) on delivery (or attempted delivery) by certified or registered mail, return receipt requested, postage prepaid, as of the date shown by the return receipt; in any case addressed to such party as set forth below or as a party may designate by written notice given to the other party in accordance herewith; or (iv) via e-mail to a party's designated agent.

If to SMG:

SMG  
Big Sandy Superstore Arena  
ONE CIVIC CENTER PLAZA  
HUNTINGTON, WV 25701  
Attention: Rik Edgar, General Manager

With a copy to:

SMG  
300 Conshohocken State Road  
Suite 770  
Conshohocken, PA 19428  
Attention: Director of Risk Management

If to Licensee:

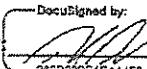
Donald J. Trump for President, Inc.  
725 5<sup>th</sup> Avenue  
New York, NY 10022  
Signator: Bradley Crate, Treasurer

(d) Force Majeure. If the Facility is damaged from any cause whatsoever or if any other casualty or unforeseeable cause beyond the control of SMG, including, without limitation, acts of God, fires, floods, epidemics, quarantine restrictions, terrorist acts, strikes, labor disputes, failure of public utilities, or unusually severe weather, prevents occupancy and use, or either, as granted in this Agreement, SMG is hereby released by Licensee from any damage so caused thereby.

(e) Acts and Omissions of Third Parties. SMG shall not be liable in any way for any acts and/or omissions of any third party to this Agreement, including, without limitation, any ticket agency used by SMG in connection with the sale of tickets for any Event.

IN WITNESS WHEREOF, this Agreement has been duly executed by the parties hereto as of the day and year first written above.

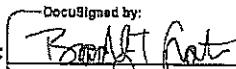
SMG, as agent for the City of Huntington, West Virginia,  
owner of the Big Sandy Superstore Arena,  
One Civic Center Plaza, Huntington, WV 25701

By:   
2059329F45A44E2

Name: Rik Edgar

Title: General Manager

PROMOTER

By:   
03442466A652463  
Name: Bradley Crate

Title : Treasurer

## Box Office Event Report

Event Name:	<b>DONALD TRUMP</b>	
	<b>PRESIDENT of the UNITED STATES</b>	
Event Location:	BSSA	
Event Date(s):	Thursday, August 03, 2017	
Event Time:	7:00PM / Doors 4:00PM	
GET TICKETS:	<a href="https://www.donaldjtrump.com/">https://www.donaldjtrump.com/</a>	
Ticket prices include fc fee	Ticket Prices FREE (2) ALLOWED	NOTES
Miscellaneous Information:	Visitors cannot bring: HOMEMADE SIGNS, BANNERS, PROFESSIONAL CAMERAS WITH DETACHABLE LENSES, TRIPODS, MONOPODS, SELFIE STICKS , BACKPACK, OR LARGE BAGS, IF YOU BRING BINOCULARS, YOU MAYBE ASKED TO TAKE THEM BACK TO YOUR CAR.	

**PLEASE READ AND RELAY TO ALL STAFF:**

**Instructions Per Jennifer (Subject to Change)**

8/3/17 ALL STAFF will need to leave the building 1pm-3pm for a sweep. Return at 3:15PM through FRONT DOORS.

Full time, please leave offices, drawers, cabinets, and safes unlocked for sweep.

All staff needs to park on top floor of parking garage. BSSA parking lot on 7th Street will be CLOSED.

Parking lot (on Veterans Memorial) used for Kitichen employees will also be CLOSED. Employees will NOT be allowed access to these areas.

Full-time will not be allowed to to park at side entrance by Gate A, please Utilize parking garage.

Access to BACKSTAGE AREA, will be strictly limited. NO EMPLOYEES allowed without proper credentials issued .

## Jennifer Sturgeon

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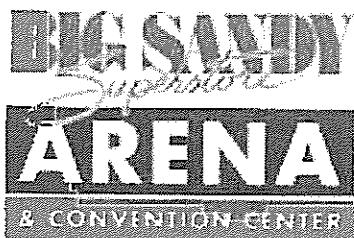
**From:** Steve Kessick  
**Sent:** Saturday, July 29, 2017 8:13 PM  
**To:** Rik Edgar  
**Cc:** Jennifer Sturgeon; James Thompson; Veronica Hordubay  
**Subject:** Walk-through notes  
**Attachments:** Pres floor layout.jpg

Notes from walk-thru with Justin (White House):

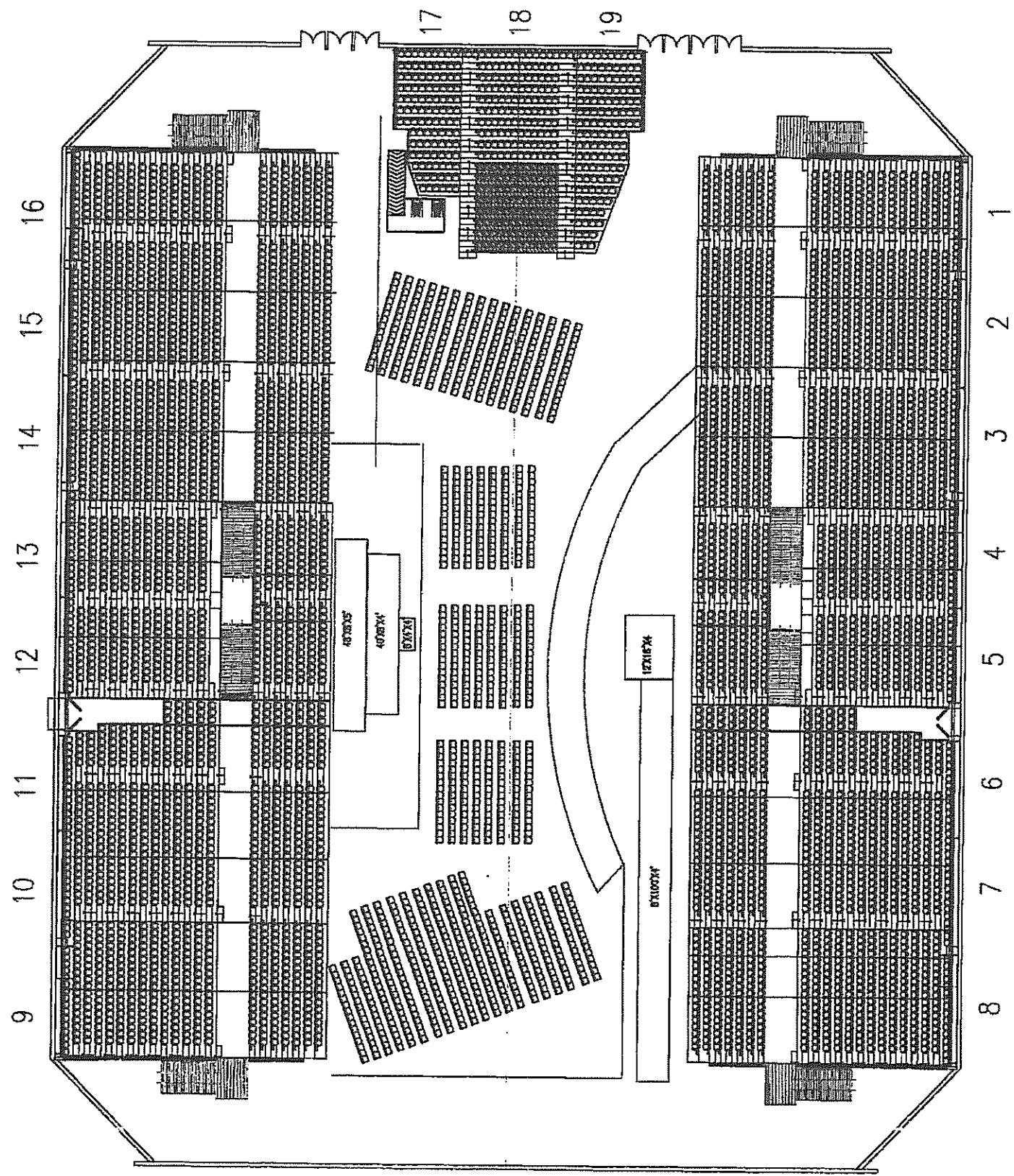
- 1) Thursday 1p-3p sweep, 3:15p soft access-VIP, 4p access, 6p pre-program, 7p event.
- 2) How many ushers do we supply?
- 3) How many Security (ESP) do we supply?
- 4) Justin will work out union call with bid winner. (He indicated Bill Heaberlin is strong contender)
- 5) Can we do a CAD drawing of attached floor drawing? (Section 5 is stage and VIP, Section 12 is Press)
- 6) Meeting with City officials Monday for equipment to block 7<sup>th</sup> St.
- 7) Requested section signs to be removed. Referred him to General Manager.
- 8) Wants ATM opened during sweep or be removed.
- 9) All employee lockers and desks be accessible during sweep.
- 10) Access to box office and F&B safe areas to open and close safes.
- 11) Press and all Marketing inquiries go direct to Campaign website. Register for Media Credentials there. No other info than that source.
- 12) Looking for 2 – 30' x 50' American Flags and 2- 20' x 30' West Virginia State Flags. (I think we have a 30x50 somewhere??)
- 13) Needs 7 sets of steps for our stage, I told him we have 4 total, 2 of which are wooden. He is checking his production vendor.
- 14) Staging required – 65 decks and 30 frames.
- 15) Monday is clean up, Tuesday is stage set up, Wednesday is Production move in, Thursday is event.

Sorry that this is all over the place. Any Q's call or text

Steve Kessick  
Director of Operations  
Big Sandy Superstore Arena  
Phone: (304) 696-5514  
Fax: (304) 696-1777



[www.bigsandyarena.com](http://www.bigsandyarena.com)  
<https://www.facebook.com/bigsandyarena>



## VISITORS GUIDE TO THE

# **BIG SANDY SUPERSTORE ARENA**

## **CORRIDOR MEASUREMENTS**

